

REMARKS

The Office Action dated August 28, 2003 has been received and carefully studied.

The Examiner maintains the rejection of claims 1-16 under the judicially created doctrine of double patenting over claims 1-10 and 11-20 of U.S. Patent No. 6,048,457, and claims 1-4, 7-14 and 16 over claims 1-11 and 13-22 of U.S. Patent No. 6,200,474 B1. The Examiner agrees with Applicants' previous argument that the '457 claims do not expressly include the limitation that the structure is adhered to at least a portion of the interior wall, but interprets the term "contiguous" to be the same as adhered.

The rejections are respectfully traversed.

The terms "adhered" and "contiguous" are not equivalent. "Contiguous" means that two elements share a common boundary; they are adjacent. Thus, in claim 1 of the '457 patent, the three dimensional structure is contiguous with, or shares a common boundary with, the second open end of the housing. That it shares that boundary does not at all speak to whether it is in any way adhered to the housing. Claim 1 of the '457 patent is completely silent as to adherence. Certainly the structure can share a common boundary with the housing and not be adhered to the housing. Similarly, certainly the structure could be adhered to the housing and not share a common boundary with the housing.

Claims 1-11 of the '474 patent also is silent as to adherence. Moreover, claims 1-11 of the '474 patent are silent as to the three dimensional structure being contiguous. Accordingly, it is not seen how the double patenting rejection is proper as to this patent.

The Examiner newly rejects claims 1, 4-6, 11, 14 and 15 under 35 U.S.C. §102(b) as being anticipated by White, U.S. Patent No. 5,156,811. The Examiner states that White discloses a housing provided with a tri-dimensional structure comprising a plurality of sorptive particles (cellulose gum).

in a porous polymer matrix, and the structure is in the housing fixed to the walls by friction. The Examiner admits that White does not mention that the structure is "adhered", but considers it to be inherent of the sealing attachment between the structure (8) and the wall (12) of the housing.

By the accompanying amendment, claims 1 and 11 have been amended to recite that the three dimensional structure is self-retaining. Support for the amendment can be found at page 16, lines 14-16, for example.

White expressly teaches that the three-dimensional structure is press-fit in the housing and is not physically attached to the inner wall by any adhesive material:

"In the preferred embodiment of the invention the plug member is not physically attached to the inner wall of the tube by any adhesive material, but is force fitted into the tube under pressure so that it will not move and forms a frictional seal with the inner wall of the tube."

Column 2, lines 45-49. This is elaborated on in column 3, lines 48-60, where it states that the plug is preferably force or pressure fitted securely into the tube so that it is securely held and frictionally sealed against the inner wall of the tube although not physically attached to the inner wall by any adhesive or other extraneous material:

"The plug member is preferably force or pressure fitted securely into tube 12, under a pressure of the order of 1800 lb, so that it is securely held and frictionally sealed against the inner wall of tube 12 although not physically attached to the inner wall by any adhesive or other extraneous material. The plug member has a tapering, frusto-conical shape of dimensions matching that of the tube 12 at a predetermined location intermediate its ends, so that the plug member will be compressed as it is forced into the tube and released at the desired position to seal against the inner wall of the tube and define a liquid sample chamber 20 of predetermined dimensions."


Thus, White clearly teaches retaining the plug member in the housing by force fitting the plug. It is not self-retaining in the housing as now required by the instant claims as amended.

With particular reference to claims 2 and 12, White expressly teaches that the plug member is intermediate the top and bottom openings of the housing, which is completely contrary to the language of these claims.

The remaining prior art is believed to have been properly not relied upon in rejecting any claim.

Reconsideration and allowance are respectfully requested in view of the foregoing.

Respectfully submitted,


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